

a third logic unit to attempt to establish a real-time communications connection to the service provider; and

a fourth logic unit to search a database of alternate service providers, in response to a failed attempt to connect the selected service provider and the user, for an alternate service provider based on a pre-established set of criteria and to offer the user an option of connecting with the alternate service provider, wherein the set of criteria comprises on or more of the alternate service provider having a rate within a predetermined range of the selected service provider, subject matter, and a reliability factor comprising a ratio of successful connections between the alternate service provider and previous users to total attempts between the alternate service provider and previous users, the ~~a-fourth logic unit to offer a list of alternate service providers based upon a reliability factor and to offer to reconnect the~~ selected service provider to the user when the selected service provider signals availability.

98. (canceled)

99. (previously presented) The system of claim 97, wherein the user can specify a method by which the service provider is reconnected with the user.

100. (previously presented) The system of claim 97, wherein the user can set a time limit on when to reconnect to the service provider.

REMARKS/ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 112 Rejections

Examiner rejected claim 96 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examiner rejected claim 37 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which is most nearly connected, to make and/or use the invention.

At the very least, the original filed application disclosed the selected service provider pre-selecting the alternate service provider by way of original claim 38 filed in the original application.

Examiner rejected claims 57, 77 and 97 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which is most nearly connected, to make and/or use the invention.

Claim 57 has been amended. Claims 77 and 97 do not claims providing a list indicating availability and rate of each alternate service provider.

35 U.S.C. § 103(a) Rejections

Examiner rejected claims 1, 2, 4, 7, 9-14, 19, 24, 27-33, 37, 39, 40, 42, 44, 47-55, 57, 58, 61, 63, 64, 67-75, 77-80, 82, 84, 87-95, 97 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,389,278 (hereinafter "Singh") in view of U.S. Patent Publication No. US2002/0010608 (hereinafter "Faber"), and in further

view of U.S. Patent No. 5,971,214 (hereinafter "Reece"), collectively hereinafter the "References."

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (Manual of Patent Examining Procedure (MPEP) ¶ 2143.03).

Applicant's independent claims 1, 37, 57, 77, and 97 include claim limitations that are not disclosed nor suggested by the References. Therefore, applicant's independent claims are patentable over the References.

In particular, applicant's independent claims include the claim limitation, or limitation similar thereto, of:

offering the user an option to connect to an alternate service provider pre-selected by the service provider, including searching a database of alternate service providers, in response to a failed attempt to connect the selected service provider and the user, for an alternate service provider based on a pre-established set of criteria comprising on or more of the alternate service provider having a rate within a predetermined range of the selected service provider, subject matter, and a reliability factor comprising a ratio of successful connections between the alternate service provider and previous users to total attempts between the alternate service provider and previous users. (Applicant's independent claim 77.)

Therefore, as a result of applicant's independent claims 1, 37, 57, 77, and 97 having claim limitations that are not disclosed nor suggested by the References, applicant's independent claims are patentable over the References.

Applicant's remaining claims depend from one of the foregoing independent claims and therefore incorporate the distinguishing limitations of the foregoing independent claims. Therefore, the remaining dependent claims are also patentable over the References.

CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 515-4707

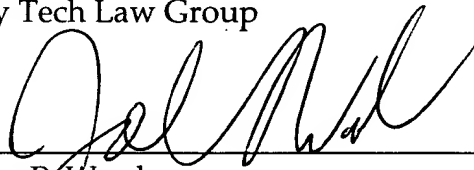
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

Bay Tech Law Group

Date: _____

7/5/05



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